

Legislative Fiscal Bureau

Fiscal Note

HF 638 - Psuedoephedrine Restrictions (LSB 3084 HV)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (jennifer.dean@legis.state.ia.us)

Fiscal Note Version — New

Description

House File 638 relates to ephedrine and pseudoephedrine. Any dietary supplement containing any naturally occurring ephedrine becomes a schedule V controlled substance. A schedule V controlled substance does not require a prescription but is not to be distributed other than for medical purposes. Any criminal offense related to a schedule V controlled substance is punishable as an aggravated misdemeanor. Beginning July 1, 2003, a retailer cannot sell or offer for sale pseudoephedrine in a single ingredient form through the use of a self-service display. A retailer who violates this commits a simple misdemeanor punishable by a schedule fine of \$100.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2003. A lag effect of six months is assumed, from the law's effective date to the date of first entry of affected offenders into the correctional system.
4. This information is provided from the Justice Data Warehouse, which consists of court information and Community-Based Corrections (CBC) through FY 2002.
5. Any criminal offense related to a schedule V controlled substance is punishable as an aggravated misdemeanor pursuant to Section 124.401(1)(d), Code of Iowa.
6. The average daily cost for parole or probation is \$1.82 per offender. The average length of stay for an aggravated misdemeanor conviction is 19 months on probation or 5 months on parole.
7. The marginal cost per day for State prisons is \$12 per offender. The average length of stay for an aggravated misdemeanor conviction is eight months.
8. The median cost per case for indigent defense is \$1,000 for an aggravated misdemeanor.
9. The average cost for an aggravated misdemeanor trial ranges from \$80 to \$470, depending on if a jury is used. These costs include the time of a court reporter, court attendant, Clerk of Court staff, and a District Associate Judge.
10. The average collection rate on an aggravated misdemeanor is 28.3%.
11. The median cost per case for indigent defense is \$250 for a simple misdemeanor.
12. The average cost for a simple misdemeanor trial ranges from \$11 to \$18, depending on if a magistrate or District Associate Judge hears the case.
13. The average collection rate on a simple misdemeanor is 61.0%.

Correctional Impact

The correctional impact of HF 638 cannot be determined, but is not expected to be significant. By adding dietary supplements to the schedule V list of controlled substances, there may be additional convictions that result; however, the number of increased convictions is unknown. The penalty for this violation is an aggravated misdemeanor. In FY 2002, there were 102 Class D felony convictions for possession with the intent to manufacture ephedrine.

House File 638 also adds a simple misdemeanor for retailers who display pseudoephedrine at a self-service display rather than behind the counter. Creation of a new criminal offense has the potential for increased charges, convictions, and use of correctional resources. However, given the low number of convictions for business/licensing violations currently occurring, as well as the misdemeanor penalty associated with the Bill, it is anticipated that the correctional impact would not be significant.

Fiscal Impact

The estimated fiscal impact of HF 638 cannot be determined. However, the State's cost for one aggravated misdemeanor non-person crime conviction ranges from \$1,100 to \$4,600. These costs will be incurred across multiple years while the person is supervised in the correctional system, either in prison or in the community. The State's cost for one simple misdemeanor conviction ranges from \$11 to \$270.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Judicial Branch
State Public Defender's Office

/s/ Dennis C Prouty

March 20, 2003

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.
